

October 23, 2008

Mr. Bischoff called the regular meeting of the Union Township Planning Board/Board of Adjustment to order at 7:10 p.m. The Sunshine Statement was read.

Members Present: Mr. Mazza, Mr. Bischoff, Mr. Martin, Mr. Taibi, Mrs. Corcoran,  
Mr. Walchuk, Mr. Ryland, Mr. Kirkpatrick (Absent for Roll Call)

Members Absent: Mr. Badenhause, Mr. Ford

Others Present: Atty. Mark Anderson, Carl Hintz, John Reymann, Clay Emerson,  
Anthony Rana, Atty. Paul Schneider, Atty. Scott Carlson, James Woods,  
Joseph Staigar, William Mulligan, Charles Tiederman, Michele McBride

It should be noted for the record that Mr. Kirkpatrick and Attys. Anderson and Schneider were delayed because of an accident on Route 78. Therefore, Mr. Bischoff opened the meeting and some agenda items were acted upon. Mr. Bischoff had requested Mr. Martin to open and chair the meeting; however, Mr. Martin declined.

**Approval of Minutes:** Mr. Walchuk made a motion to approve the minutes of the September 25, 2008 meeting. Mrs. Corcoran seconded the motion.

Vote: Ayes: Mr. Walchuk, Mr. Taibi, Mr. Martin, Mrs. Corcoran, Mr. Ryland

Abstain: Mr. Mazza, Mr. Bischoff

Mr. Bischoff had a comment about the September 2, 2008 Executive Session minutes. He said the minutes should not state that he and Mayor Mazza abstained. They were recused. With that revision, Mrs. Corcoran made a motion to approve those minutes. Mr. Ryland seconded the motion.

Vote: Ayes: Mrs. Corcoran, Mr. Ryland, Mr. Martin, Mr. Taibi, Mr. Walchuk

**Announcements:** Mr. Bischoff apprised members that the Freeholders have agreed to grant the long-sought after \$1,500,000 toward the Milligan Farms Project. Mr. Bischoff also said a grant of \$575,000 toward the Project was received from Green Acres. A grant of \$800,000 from the Watershed Association is anticipated. Additional information is required before that money is forthcoming. Mr. Bischoff said an additional application has been made to Green Acres for \$600,000 and may be available before the end of 2008. Those monies will reduce the Township's indebtedness. Mr. Bischoff also said the Township will not be required to pay for State Police Coverage. He mentioned the Golf Outing that was organized by Mayor Mazza raised over \$7,300.00 for the Pattenburg Fire Company.

**Issue of Completeness: Plushanski/Perryville Center: Block 12, Lot 9, 78 Route 173 West:** Mr. Reymann said applicant is seeking approval to construct a 2,000 square foot addition to the existing steel building. The addition would be constructed on a paved area; therefore, there would be no increase in impervious surface coverage.

The site had never received Final approval. Mr. Reymann said applicant should submit a revised Preliminary and Final Site Plan application. A variance for expansion of a non-conforming use would also be required. Mr. Bischoff was advised in a telephone conversation with Atty. Mark Anderson, that applicant would need to submit an Amended Preliminary and Final Site Plan application. In a letter dated October 2, 2008, Mr. Reymann recommended the application be deemed incomplete. Mr. Bischoff said Atty. Anderson also advised that the application be deemed incomplete. Messrs. Anderson and Reymann will speak with applicant about the matter.

Mr. Taibi made a motion to deem the application incomplete. Mr. Walchuk seconded the motion.

Vote: Ayes: Mr. Taibi, Mr. Walchuk, Mr. Mazza, Mr. Bischoff, Mr. Martin,  
Mrs. Corcoran, Mr. Ryland

**Petri: Block 15, Lots 8 & 8.01, 25 Stonehaven Lane: Memorialization of Resolution #2008-005:** Atty. Anderson arrived at this time. Mr. Anderson said outstanding issues have been resolved. Mr. Bischoff asked for a motion to memorialize the Resolution.

Mrs. Corcoran made the motion. It was seconded by Mr. Mazza.

Vote: Ayes: Mrs. Corcoran, Mr. Mazza, Mr. Bischoff, Mr. Martin, Mr. Taibi  
Mr. Ryland

**Goldberg: Block 28, Lot 25, 64 Cooks Cross Road:** The Resolution will be memorialized at the November 20, 2008 meeting.

**Correspondence:** For Board's Information

**Comments from the Public/Other Discussion:** None

**Pilot Travel Centers LLC: Block 11, Lot 24.03, 68 Route 173 West:** Mr. Bischoff said that he and Mayor Mazza would have to recuse themselves from the matter and the Chairman had not yet arrived. A telephone call was placed to Mr. Kirkpatrick who said he would be arriving shortly. Mr. Bischoff said a recess would be taken.

Mr. Kirkpatrick reconvened the meeting. Mr. Bischoff asked that the record reflect that he and Mayor Mazza were recusing themselves from the rest of the night's proceedings. Atty. Scott Carlson, representing Pilot, asked Engineer James Woods to come forward. Mr. Carlson said Atty. Paul Schneider was delayed because of the accident. Mr. Woods had been sworn previously. He stated his credentials and was accepted as an expert in the field of engineering. Mr. Woods presented two Exhibits. The existing conditions Exhibit was marked A-100 and proposed conditions Exhibit was marked A-101. Mr. Woods said the site is in the Professional Office District. He gave overviews of both Exhibits. Mr. Woods also cited the conditional use variances that had been granted. Internal and external renovations are proposed for the existing building.

Impervious surface coverage and parking will be reduced. One additional diesel fueling station is proposed. No additional gasoline fueling stations are proposed. Mr. Woods said additional landscaping is proposed and storm water improvements will be made. A downstream defender will be installed to remove storm water pollutants. It is Pilot's intent to fully comply with the illumination requirements of the Ordinance. At the request of the Board, the existing free-standing sign will be relocated. He said relief will be requested from some aspects of the Ordinance pertaining to signage.

Mr. Woods displayed three more Exhibits. The Graphic Representation of TSS Removal Efficiency (Existing Oil/Water Separator) was marked A-102; the Graphic Representation of TSS Removal Efficiency (Existing & Proposed) was marked A-103 and Exhibit A-104 showed the Proposed Condition with Double TSS Concentration. He explained how the proposal would work.

Mr. Woods stated the non-conformities. He said although impervious surface coverage would be reduced, it still exceeds that which is allowed by Ordinance. Relief is sought for parking, even though the number of spaces is proposed to be reduced. The setback for the courtyard on Charlestown Road is a pre-existing condition and storm water management devices are within the front yard setbacks. Relief is being sought for those conditions. The issue of landscaping around the loading area needs to be discussed by the Board and Mr. Woods said they could decide if there was need for a variance.

Atty. Anderson asked that the record reflect that Atty. Howard Schneider had arrived. Mr. Schneider said Pilot is proposing a 15' by 20' loading area, fully buffered. The Ordinance requires 15' by 50'. Atty. Schneider said Pilot's Planner will offer testimony as to why variance requests are justified. Mr. Woods reemphasized that Pilot proposes installation of full cutoff lights. He mentioned that Mr. Hintz asked that additional directional arrows be painted on the pavement. Plant materials suggested by Mr. Hintz will be complied with. Pilot's Traffic Engineer will address the directional arrows matter. Mr. Woods said Dr. Souza has basically accepted Pilot's Stormwater Reports. Pilot will comply with requests by Dr. Souza about the detention basin, i.e., overgrown vegetation will be cut back and water-tolerant plants will be provided. Mr. Woods said Mr. Reymann's concerns will be addressed, including proper labeling of truck parking stalls and placement of no idling signs. Mr. Woods said the site is open 24 hours a day. Mr. Reymann had mentioned required approvals. Mr. Woods said Pilot has County Soil Conservation District approval. He sent the District a new plan and asked for recertification. The County Planning Board has granted conditional approval not to construct. Approval to construct will be given after the Township grants approval. Mr. Woods said Pilot has to comply with NJDOT Regulations.

Mr. Kirkpatrick asked Mr. Woods if the Stormwater Management System was designed to handle runoff from truck or trailer washes. Mr. Woods indicated the proposed downstream defender should handle a wide array of pollutants.

Atty. Anderson asked if all lighting on the site would meet Ordinance requirements. Mr. Woods said "Yes". Mr. Anderson had a question about the goal post sign. Would the surface area of the sign be increased? Mr. Woods said "No", it would be decreasing slightly. Mr. Kirkpatrick mentioned the truck repair sign on the goal post. It will be replaced by Subway.

Mr. Kirkpatrick asked for questions from the Board. Mrs. Corcoran asked the square footage of the existing goal post sign. Mr. Woods did not know. Mr. Hintz asked for clarification on the date of the drawings and the height of the signs. Atty. Schneider said the height is 30 feet. Mr. Hintz asked for a revised plan. Mr. Ryland had a question about sign placement. Mr. Kirkpatrick said that would be discussed later. Mr. Taibi had a question about the seventh diesel pump and the increase in the total pumping capacity of the diesel. He wanted to know how the amount of fuel pumped out of seven pumps would not exceed that is currently pumped out of six. Mr. Woods indicated the proposal would increase efficiency at the site. Atty. Schneider told Mr. Taibi his question could be directed to Mr. Mulligan. Regarding directing Pilot clients to the site and Mr. Taibi's concern about the safety of the pit, Mr. Schneider said that question should also be directed to Mr. Mulligan. Messrs Kirkpatrick and Ryland had questions about signage. Atty. Schneider said the Traffic Engineer could address those questions.

Mr. Kirkpatrick asked for questions from the Board or Public. Michele McBride asked the color of the proposed fencing. Mr. Woods said it will be black. Ms. McBride noted there has been a problem with debris at the site. Mr. Woods said it sounds like a maintenance issue. The type of fence was noted. Mr. Hintz said it would be black vinyl clad.

Atty. Anderson noted some housekeeping issues. He said the Notice Documents had been reviewed and they were found to be complete. Mr. Anderson said the Hearing was a continuation of the second hearing pursuant to a settlement and was being conducted pursuant to the Whispering Woods case. He explained that case. Attorneys Anderson and Schneider said there are some details that need to be addressed.

Atty. Schneider asked Joseph Staigar to come forward. Mr. Staigar had been sworn previously. Mr. Kirkpatrick indicated his credentials would be accepted as presented earlier. Mr. Staigar described the circulation interior and entrances and exits as they affect roadways in the vicinity. Mr. Staigar said a traffic study had been performed in September 2008. He provided details of the study. The striping at the median between the I-78 off ramp and the easterly driveway will be removed. A left-hand turn lane will be provided. That change must be approved by NJDOT. Representatives of the Township have been invited to attend Pilot's meetings with NJDOT. Mr. Staigar explained the loading zone proposal. There will be no large trucks making deliveries.

Mr. Staigar responded to Mr. Reymann's concern about site lines. Mr. Staigar will work with Mr. Reymann regarding that matter.

Mr. Staigar presented an Exhibit showing the Truck Circulation Plan. He said it was the Plan sent to the State Police for their input. The Exhibit was marked A-105. The next Exhibit, marked A-106, depicted movement of a truck leaving fueling position Number 6 and turning clockwise to the rear of the property. Atty. Schneider asked if a change was proposed for the signal timing at the Route 173/Charlestown Road intersection. Mr. Staigar said that was not being proposed because he does not see an increase in traffic volume. Mr. Uhl said tweaking the timing would make a difference. Mr. Staigar said they would approach DOT about the matter, if it was the recommendation of the Board.

Mr. Staigar responded to Mr. Hintz's comment regarding additional painted directional arrows. Mr. Staigar said they would be placed in strategic locations that would help the flow of traffic. Mr. Staigar had no further comments. He said he was available for questions. Mr. Ryland noted that there is a major problem with traffic backing up. Mr. Staigar said the proposed Plan should improve conditions. The issue of increased traffic was mentioned. Mr. Staigar said that car traffic has increased more than truck traffic. He attributed that to the improved appearance of the site since it was purchased by Pilot. Mr. Taibi asked if the right turn off of Route 78 could be softened by increasing the radius. Mr. Staigar said that question could be asked by Messrs. Hintz and Reymann at the NJDOT meeting. However, if it is a matter of going to the Federal Highway Administration, it wouldn't work. Mr. Kirkpatrick asked Mr. Staigar if his client would make changes based upon NJDOT recommendations. Mr. Staigar said they would. .

Mr. Kirkpatrick questioned Mr. Staigar about trucks making u-turns between the building and pumps. Would it be better to allow trucks to come back around the fueling area? Mr. Kirkpatrick thought a bollard could be used to discourage trucks from going between the building and pumps. Mr. Staigar said a bollard could be a concern if an emergency vehicle needed to get through. Mr. Kirkpatrick asked what would happen when truck parking spaces were full, or queing exceeds the site capacity and trucks extend out onto Route 173. Mr. Staigar said he thought a sign would be posted out front saying the truck parking area was full. He did not think the queing would extend onto Route 173.

Mr. Uhl asked Mr. Staigar if he perceived a problem since 12 fewer parking spaces are proposed for cars. Mr. Staigar said the parking demand would be reduced because the proposed restaurant will have mostly take-out dinners. The 12 spaces would be primarily for customers inside the store. Mr. Hintz asked what would happen if Pilot decided to end their contract with Subway and enter into a contract with McDonalds. Atty. Anderson said there are limitations in the Use Variance that limit the use to a Subway type. Mr. Kirkpatrick said McDonalds could not operate there since cooking is not allowed.

Michele McBride had a question about the traffic study and future projections once the new Pilot facility was built. Mr. Staigar emphasized that projection was based upon an application that proposed tearing the building down. The current application proposes changing the traffic flow, driveways, adding a diesel pump and changing the diner to a Subway. Mr. Staigar said he could not project an increase or not. The only difference between what you have and what is proposed is a prettier, more attractive site.

Mrs. Corcoran asked if signal changes were proposed at Charlestown Road in 2005. Mr. Staigar said there was a three-second transposition of green time. He said if the NJDOT recommended the change Pilot will do it. Mr. Kirkpatrick asked about trucks having a problem making a right turn. Mr. Staigar said Pilot would improve the intersection. He did not, however, think there would be a significant increase in westbound trucks using the site. Mr. Taibi thought it was naïve to not correct the problem. Mr. Staigar reiterated that if NJDOT determines improvements are needed at the intersection, Pilot will make them.

Atty. Schneider asked for a brief recess. Mr. Kirkpatrick granted the request.

Mr. Emerson had a question/clarification for Mr. Woods. He said the area for the proposed plants would be too dry. Mr. Emerson asked Mr. Woods if he had accounted for impervious area reduction regarding TSS removal. Mr. Woods said that because of the conversion of areas of impervious surface to landscaping there would be less TSS generated, making the area more favorable for the proposed plants. Mr. Emerson continued. He did not think it was decided whether the sand filter would be lined or unlined. Mr. Emerson was concerned that if the filter was not lined, there was a potential for existing contamination to subsurface at the site. Mr. Emerson and Dr. Souza had discussed the issue and he did not believe the matter was settled. Mr. Emerson thought that issue would be deferred to the Township Hydrogeologist. Mr. Woods thought it had been discussed. He did not think that was an issue. Mr. Emerson also had a concern about the proposed downstream defenders not controlling surfactants.

Mr. Mulligan began testimony. He said Pilot purchased the site in 2007. They had proposed tearing down the existing building. However, because of costs, it was decided to remodel the building. Mr. Mulligan said the facility is open 24 hours a day. Gasoline is sold between the hours of 6:00 a.m. and 11:00 p.m. or midnight. Diesel fuel is sold 24 hours per day. Traveler amenities are also available during those hours. Mr. Mulligan described security. He said there are five cameras around the area and seven or eight cameras inside the facility. Pilot retains all recordings for at least a year. Recordings would be made available to law enforcement personnel. Mr. Mulligan explained Pilot's emergency management plan regarding catastrophic fires and spills. Mr. Mulligan described Pilot's plan to comply with idling regulations. He said signs will be posted at the site. Mr. Mulligan understood the Board was concerned about pollution from idling engines. He said by 2013/14 there will be less pollution from trucks than there will be from cars.

Atty. Schneider said Mr. Mulligan was available for questions. Mr. Walchuk said he would not want to wait until 2013. He would want signs posted. Mr. Staigar felt that authorities could enforce the no idling regulation. Employees will be asked to distribute idling regulations to truckers. Mrs. Corcoran noted there is a billboard in Pennsylvania telling trucks to use either the Bloomsbury or Union Township Site. Pilot had indicated they would discourage eastbound traffic from getting off at Exit 12. Mrs. Corcoran did not think the billboard discouraged that action. Mr. Mulligan said he was not going to take the billboard down. Mr. Taibi referenced the Resolution dated September 2, 2008. He asked if Pilot was going to reverse positions. Mr. Mulligan said about 60% of the Resolution had not been discussed. Mr. Kirkpatrick said the Resolution would be discussed after the Hearing. Mr. Uhl had a question about placement of cameras. Mr. Kirkpatrick said the Resolution stated the camera would record the license plate number. Mr. Mulligan said Pilot would want the name of the trucking company and the trailer and truck numbers for purposes of reporting accidents to their insurance carrier. Mr. Kirkpatrick voiced a concern about more serious crimes. Would that information provide necessary tools for police? Mr. Mulligan implied that it would be sufficient.

Mr. Kirkpatrick asked if there were containment measures to keep a large spill from migrating off the site. Mr. Mulligan said there was sufficient capacity. Mr. Ryland asked about spill control as it pertains to Hilltop Fuel. Mr. Mulligan said Hilltop Fuel is on his property. NJDEP had been at the site, reviewed everything and found that Pilot was 100% compliant. Mr. Mulligan said Pilot would provide a copy of the DEP report. Pilot said the DEP asked that there be no more washing of trucks. Pilot agreed with DEP. Mr. Mulligan said he believes that DEP inspects once a year and the Federal Government requires an inspection at least once every three years. Charles Tiederman interjected. Atty. Schneider asked that he be sworn. Having been sworn, Mr. Tiederman stated his credentials. His area of expertise on this project is wastewater disposal. Mr. Tiederman confirmed Mr. Mulligan's testimony about the frequency of inspections. He said that DEP checked both storm water and wastewater systems. Mr. Kirkpatrick asked Mr. Tiederman if he was going to testify about the status of the groundwater contamination cleanup. He said reports needed from the State have not been received. The issue had not been discussed when DEP representatives were at the site. Atty. Schneider said required data had been submitted. Mr. Mulligan noted the uncertainty of getting responses from state agencies. Atty. Schneider said an inquiry from the Township would make the DEP move quickly. .

Atty. Anderson asked if there were monitoring wells. Mr. Mulligan said there are permanent monitoring wells. Testing is taken from those wells as part of the approved DEP intermittent investigation plan. Atty. Anderson asked Mr. Mulligan if he knew how often there is free product and how much. Mr. Mulligan said he didn't know. He sees the bills and noted that it is more expensive when product is pulled manually. Mr. Anderson asked Mr. Mulligan if he knew where DEP was going beyond the investigative part. Mr. Mulligan believes Pilot will have to come up with a remediation plan. A plan has not been submitted to the DEP. They have not set a time limit.

Atty. Anderson asked if contamination was the result of a particular spill or was it a tank problem. Mr. Mulligan said it could be an accumulation. He was unaware of a catastrophic spill. Mr. Mulligan said Pilot has their own system that monitors sites every 15 minutes. Mr. Kirkpatrick asked if Pilot's environmental consultant and hydrogeologist had a handle on the location of contamination and the necessary remediation measures. Mr. Mulligan said "Yes". He thought it would take 30 to 45 days to prepare a remediation plan. Mr. Kirkpatrick asked if there was anything stopping Pilot from presenting the plan to DEP. Atty. Schneider said that would be done after the investigation was completed. Mr. Mulligan said DEP would give some standards on what is necessary for the clean up. Mr. Kirkpatrick said DEP has tech regulations on remedial investigation. Had Pilot deviated from the regulations? Mr. Mulligan said he would check into the matter. Mr. Ryland revisited the Hilltop Fuel issue. Mr. Mulligan assured Mr. Ryland that Pilot was responsible for any problems associated with Hilltop. Mr. Ryland asked about tractor-trailer deliveries to Subway. Mr. Mulligan said a tractor-trailer making a delivery to Subway would have to go to the back. Mr. Taibi said tractor-trailers are coming to the restaurant area. Mr. Mulligan said they may not be coming from the back because the building has not been remodeled. Mr. Ryland asked the purpose of the loading zone. Mr. Mulligan said he didn't know. Trucks delivering soda, bread, etc. might use that area.

Mr. Kirkpatrick asked the next witness to come forward. Atty. Schneider indicated Mr. McDonough would state justification for the C variances. Mr. McDonough said his testimony would be about ten minutes. Mr. Kirkpatrick said ten minutes was fine. He also said he would like Mr. Tiederman to compare the efficiency of the existing wastewater system to that which is proposed. Mr. Tiederman had provided a letter dated October 10, 2008. The letter was marked Exhibit A-107. Mr. Tiederman provided his educational and professional background. He was recognized as an expert in wastewater management and engineering. Mr. Tiederman said Pilot proposes upgrading the existing on-site wastewater treatment system. He explained the upgrades. There is a NJ Pollutant Discharge Elimination Systems T-1 Permit for the existing system. The DEP Enforcement Division inspects the system for compliance, once every two or three years. Mr. Tiederman inspects the system monthly, as required by the T-1 Permit. The Permit allows discharges greater than 2,000 gallons per day (gpd). Mr. Tiederman provided information on the mass balance loading. Mr. Tiederman said Pilot proposes designing a 6,500 gpd wastewater plant in anticipation of a busy day. Mr. Kirkpatrick said Pilot's Permit would be limited to 6,500 gpd and there would be regular monitoring. Mr. Tiederman said NJDEP requires a permit known as a NJDEPS Individual Permit, as well as a Treatment Works Permit.

Mr. McDonough came forward to testify. He provided the Board with a one-sheet handout. It was entitled Pilot Union – Variance Justifications. The handout was marked Exhibit A-108. Mr. McDonough had categorized the Variances.



They were Bulk Variances, Landscape/Buffer Variances, Signage Variances and Loading Variances. Pilot is in compliance with the Lighting Ordinance; therefore that listing was removed from discussion. Mr. McDonough described the Variances. Mr. McDonough provided a photograph of the 22-foot goal post sign. The photograph was marked Exhibit A-109. Mr. McDonough provided a photograph of the rooftop sign. That photograph was marked Exhibit A-110. Mr. McDonough said that sign will be eliminated as part of the application. Two more Exhibits, marked A-111 and A-112, were provided. They show the existing canopies for fueling stations. Mr. McDonough provided testimony which he believes justifies the granting of requested Variances. Messrs. Taibi and Walchuk commented on aspects of Mr. McDonough's testimony on signage.

Mr. Kirkpatrick said the Board expected to hear testimony about the impact of withdrawing additional water and whether it would draw contaminants into the potable water or not. Atty. Schneider said that was the aquifer test condition. Mr. Kirkpatrick asked if Pilot's Hydrogeologist thought that increasing the amount of water withdrawn from the well would pull contaminants into the well. Atty. Schneider said at the time of the completeness litigation, Pilot's Hydrogeologist testified that he did not think increasing the withdrawal would cause the contamination. Mr. Kirkpatrick said he was not here for that original testimony.

The Resolution before the Board was considered. Mr. Kirkpatrick asked Atty. Schneider his thoughts on the conditions. Mr. Schneider emphasized the areas of agreement. The issues of obtaining a construction permit, remediation of contamination at the site, measures to contain and control a spill or a catastrophic fire, the idling plan, security, the addition of another diesel fuel pump and associated increase in pumping capacity, maintenance of the wastewater treatment system to NJDEP standards and associated reports, amount of groundwater withdrawal, installation of water and sewer meters, Subway conditions, signage, recycling provisions, the non-residential development fee and when fees are to be paid, and outstanding violations in Municipal Court were considered..

Mr. Kirkpatrick summarized the positives and negatives of what Pilot proposes. Messrs. Kirkpatrick, Ryland, Taibi and Walchuk voiced concerns about additional pumping capacity and Mr. Taibi expressed his concern about safety conditions of the pit in the repair shop. Mr. Walchuk asked the alternative if the Board did not make a decision tonight. Atty. Anderson said the matter could be carried. Mr. Anderson said he and Atty. Schneider could work on the Resolution and give a more complete version to Board members for their consideration. The next Board meeting is scheduled for November 20, 2008. Mr. Kirkpatrick said the Planning Board and Township Committee will be holding a Joint Meeting on November 5, 2008. He said the matter could be continued on that date. Atty. Schneider signed an Extension of Time to Act until November 20, 2008.

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**Motion to Adjourn:** Mr. Walchuk made a motion to adjourn. Mrs. Corcoran seconded the motion. (12:45 a.m.)

Vote: All Ayes

Grace A. Kocher, Secretary